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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,804	10/06/2003	Teresa Joanne Hunkeler	I-2-0388.1US	3395

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EXAMINER
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HAILU, KIBROM T

ART UNIT	PAPER NUMBER
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2461

MAIL DATE	DELIVERY MODE
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02/18/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/679,804	<b>Applicant(s)</b> HUNKELER ET AL.	
	<b>Examiner</b> KIBROM T. HAILU	<b>Art Unit</b> 2461	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 8,13,14,16 and 22-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8,13,14,16 and 22-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/06/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 3, 2010 has been entered.

### ***Response to Arguments***

2. Applicants' arguments filed February 3, 2010 have been fully considered but they are not persuasive because the references cited in the previous office action disclose the claimed invention.

Basically, the Applicants' argument is that Svensson and Krosawa, in combination, do not disclose "continue the session in the second wireless communication system using the translated QoS requirement". The Examiner respectfully disagrees. Svensson clearly discloses that converting the QoS requirement, such as signal strength or E/I, of one wireless communication system (such as UMTS) to QoS requirements of another wireless communication system (such as GSM) for making handover decisions. Svensson further discloses when handing over from one wireless communication system to another wireless communication system, the conversation or connection or session continues without interruption (Please read col. 1, lines 27-33; col. 2, lines 49-58). If the communication, such as speech, doesn't continue when the user entered into different wireless system with a totally different quality of service, there is no need to talk about handing over. Handing over is a means to hand the existing connection from one wireless system

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or another base station without interrupting the users conversation or session. And that is exactly what is taught by Svensson.

As per the Applicants' assertion that Krosawa doesn't teach the argued limitation, since Svensson discloses the limitation, there is no need for Krosawa to teach the same. As clearly indicated in the previous office action, the Examiner cited Krosawa for its explicit teaching of *means or application* to establish the session and the second wireless communication system is *CDMA 2000*.

Therefore, the claimed invention is not patentable in view of the cited references, and the Applicants' argument is not persuasive.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claim 8, 13, 22-23 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Svensson (US 6,393,286 B1) in view of Kubosawa (US 7,242,934 B2).

**Regarding claim 8, 13 and 22-23**, Svensson discloses a wireless transmit/receive unit (WTRU) (22) and method, the WTRU comprising: a translator (col. 3, line 39, microprocessor) configured to translate Quality of Service (QoS) requirements of a first wireless communication system of a first type to QoS requirements of a second wireless communication system of a second type (col. 3, lines 39-56; col. 3, lines , clearly explains that the measurement information such as the quality of service, Error Rate or signal strength information of the first communication system is converted to the second communication system); and establishing a session in the first type of wireless communication system using the predetermined QoS requirements of the first wireless communication system is and, in response to a handover to the second wireless communication system, to continue the session in the second type of wireless communication system using the translated QoS requirements (col. 1, lines 21-33; col. 2, lines 49-58, illustrating that during handing over from one system to another system the started or existed call or session is maintained and/or continued. Meaning, the established session in the first system using the first measurement information is maintained when handing over to the second system using the converted second measurement information), and the first communication system is UMTS (Fig. 2).

Svensson doesn't explicitly disclose an application configured to establish the session and the second wireless communication system is a CDMA 2000 system.

Kubosawa teaches an application configured to establish the session (Fig. 1; col. 2, lines 41-45; col. 5, lines 29-40, clearly describes that radio section establishes a session or connection and processes the handing over from one system to another system) and the second wireless communication system is a CDMA 2000 system (Fig. 3).

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use ratio section to establish a session and the second wireless communication system is a CDMA 2000 system as taught by Kubosawa into Svensson in order to for a user to effectively be able to execute the hand over, to be able to perform interoperability under different systems with different data communication speed and under different quality level, cutting off during the communication is avoided, the communication charge is made to be low, and the handover meeting the desire of the user cab be executed.

**Regarding claim 26 and 27**, except mentioning of a wireless interface, the claims include features corresponding to subject matter mentioned above to the rejected claim 8 and 13. The claims are just mere reformulation of claim 8 and 13, and the rejections to claim 8 and 13 are applied hereto. Note that an interface is inherent because there is no way for any mobile device to receive an information without having an interface (please also see fig. 2 of Svensson).

6. Claim 14, 16 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Svensson in view of Kubosawa, and further in view of Reynolds (US 7,149,524 B2).

**Regarding claim 14 and 24**, as applied above, the modified communication of Svensson discloses the first wireless communication system is a cellular system. However, the modified communication of Svensson doesn't explicitly the second wireless communication system is a wireless local are network (WLAN).

Reynolds teaches the second wireless communication system is a wireless local are network (WLAN) (Fig. 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the second wireless communication system is a wireless local are

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network (WLAN) as taught by Reynolds into the modified communication of Svensson in order to allow the user to effectively communicate using multiple types of services, such as video and voice, in heterogeneous mobile environment during migration without any interruption.

**Regarding claim 16 and 25**, as applied above, the modified communication of Svensson discloses the second wireless communication system is a cellular system. However, the modified communication of Svensson doesn't explicitly the first wireless communication system is a wireless local are network (WLAN).

Reynolds teaches the first wireless communication system is a wireless local are network (WLAN) (Fig. 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the first wireless communication system is a wireless local are network (WLAN) as taught by Reynolds into the modified communication of Svensson in order to allow the user to effectively communicate using multiple types of services, such as video and voice, in heterogeneous mobile environment during migration without any interruption.

7. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Svensson in view of Kubosawa, and further in view of Forslow (US 6,608,832 B2).

As applied above, the modified communication of Svensson discloses the translated QoS requirements. However, the modified communication of Scensson doesn't explicitly disclose the QoS requirements include at least one of: a jitter parameter; a data rate parameter; a QoS class parameter; and a transfer delay parameter.

Forslow teaches the QoS requirements include at least one of: a jitter parameter; a QoS class parameter; and a transfer delay parameter (col. 4, line 61-col. 5, line 10).

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the QoS parameters rate, jitter, QoS class and delay as taught by Forslow into the modified communication of Forslow in order to be able to provide a certain particular communications service with a requested quality, such as certain multimedia applications or even a simple voice phone call need guarantees about accuracy, dependability, and speed of transmission, and to easily retrieve all QoS information need to continue the call when the user roams from system to system.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KIBROM T. HAILU whose telephone number is (571)270-1209. The examiner can normally be reached on Monday-Thursday 8:30AM-6:00PM.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kibrom T Hailu/

Examiner, Art Unit 2461

/Jason E Mattis/

Primary Examiner, Art Unit 2461